

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-167 (Sub-No. 1094)A

CHELSEA PROPERTY OWNERS–ABANDONMENT–PORTION OF THE CONSOLIDATED
RAIL CORPORATION’S WEST 30TH STREET
SECONDARY TRACK IN NEW YORK, NY

Decided: January 13, 2005

On December 17, 2004, 511 West 23rd Street Associates, LLC (Associates), filed a motion to intervene and a reply in opposition to the request for issuance of a Certificate of Interim Trail Use (CITU) that was filed on September 22, 2004, by the City of New York (the City) joined by New York State Urban Development Corporation d/b/a Empire State Development Corporation, Consolidated Rail Corporation and CSX Transportation, Inc. Associates also requests that it be permitted to supplement or amend its tendered reply within 30 days of the issuance of a decision granting its intervention request. On January 6, 2005, the City filed a motion for leave to file a reply in opposition to Associate’s motion for intervention, request for permission to supplement or amend, and reply in opposition to the issuance of a CITU. The City also tendered its reply.

Associates, one of the 23 landowners represented by Chelsea Property Owners (CPO), states that it can no longer rely on CPO to protect its property interests as concerns the Highline, as a result of CPO’s decision on December 17, 2004, to withdraw the organization’s opposition to the issuance of a CITU. Contending that there are significant issues at stake, Associates argues that its intervention is justified and that it should be permitted to supplement or amend its tendered reply in view of the limited time it had for its preparation.

Associates’ motion to intervene will be granted, and its tendered reply will be accepted into the record. The City’s motion for leave to file a reply will be granted, and its tendered reply will also be accepted into the record. Notwithstanding its claim of limited time, Associates knew or should have known that CPO was negotiating with the City over the latter’s CITU request for more than a year and that negotiations had turned serious once CPO began requesting enlargements of the time to respond to the filing of the September 22 joint request for a CITU. Associates will be given 20 days from the service date of this decision to supplement or amend its reply, and the parties will be given 20 days after that to respond.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. Associates' motion to intervene is granted, and its tendered reply is accepted into the record.
2. Associates may supplement or amend its reply by February 2, 2005.
3. The City's motion for leave to file a reply is granted, and its tendered reply is accepted into the record.
4. If Associates supplements or amends its reply, parties may reply to the supplemented or amended reply by February 22, 2005.
5. This decision is effective on its date of service.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams
Secretary